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**FILED**  
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 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

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 DARLA DEVLIN

**E-filing**

**UNITED STATES DISTRICT COURT,  
 NORTHERN DISTRICT OF CALIFORNIA,**

DARLA DEVLIN,

Plaintiff,

v.

BUREAU OF COLLECTION RECOVERY,  
 INC.,

Defendant.

) Case No. **10-0334**  
 ) **COMPLAINT AND DEMAND FOR**  
 ) **JURY TRIAL**  
 )  
 ) (Unlawful Debt Collection Practices)  
 )  
 )  
 )

**JSW**

**VERIFIED COMPLAINT**

DARLA DEVLIN (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges the following against BUREAU OF COLLECTION RECOVERY, INC. (Defendant):

**INTRODUCTION**

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 et seq. (RFDCPA).
3. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, insurers, and attorneys.

**JURISDICTION AND VENUE**

4. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
5. Defendant conducts business in the state of California, and therefore, personal jurisdiction is established.
6. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.
7. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

**PARTIES**

8. Plaintiff is a natural person residing in Concord, Contra Costa County, California.
9. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)* and *Cal. Civ. Code § 1788.2(h)*.
10. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)* and *Cal. Civ. Code § 1788.2(c)*, and sought to collect a consumer debt from Plaintiff.
11. Defendant is a national company with its headquarters in Eden Prairie, Minnesota.

**FACTUAL ALLEGATIONS**

12. Defendant constantly and continuously placed collection calls to Plaintiff seeking and demanding payment for an alleged debt.
13. Defendant constantly and continuously places collection to Plaintiff from 925-230-2588. (See Exhibit A).
14. Defendant places calls to Plaintiff’s cellular phone and her work phone attempting to collect the alleged debt owed.
15. Plaintiff has informed Defendant that she cannot receive collection calls at work and to

1 only call her cellular phone.

2 16. Defendant continues to place calls to Plaintiff on her work telephone despite this.

3 **COUNT I**  
4 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

5 17. Defendant violated the FDCPA based on the following:

6 a. Defendant violated §1692c(a)(1) of the FDCPA by communicating with Plaintiff  
7 at a time and place known to be inconvenient.

8 b. Defendant violated §1692c(a)(3) of the FDCPA by communicating with Plaintiff  
9 at her place of employment after being notified by Plaintiff that she cannot  
10 receive such calls at her place of work..

11 c. Defendant violated §1692d of the FDCPA by engaging in conduct of which the  
12 natural consequence is the abuse and harassment of the Plaintiff.

13 d. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring  
14 repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.

15 WHEREFORE, Plaintiff, DARLA DEVLIN, respectfully requests judgment be entered  
16 against Defendant, BUREAU OF COLLECTION RECOVERY, INC., for the following:

17 18. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection  
18 Practices Act,

19 19. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

20 20. Actual damages,

21 21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,  
22 15 U.S.C. 1692k

23 22. Any other relief that this Honorable Court deems appropriate.

24 **COUNT II**  
25 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

23. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as

1 the allegations in Count II of Plaintiff's Complaint.

2 24. Defendant violated the RFDCPA based on the following:

- 3 a. Defendant violated §1788.11(d) of the RFDCPA by causing Plaintiff's telephone  
4 to ring repeatedly and continuously so as to annoy Plaintiff.
- 5 b. Defendant violated §1788.11(e) of the RFDCPA by placing collection calls to  
6 Plaintiff with such frequency that was unreasonable and constituted harassment.
- 7 c. Defendant violated the §1788.17 of the RFDCPA by continuously failing to  
8 comply with the statutory regulations contained within the FDCPA, 15 U.S.C. §  
9 1692 et seq.

10 WHEREFORE, Plaintiff, DARLA DEVLIN, respectfully requests judgment be entered  
11 against Defendant, BUREAU OF COLLECTION RECOVERY, INC., for the following:

- 12 25. Declaratory judgment that Defendant's conduct violated the Rosenthal Fair Debt  
13 Collection Practices Act,
- 14 26. Statutory damages pursuant to the Rosenthal Fair Debt Collection Practices Act, Cal.  
15 Civ. Code §1788.30(b),
- 16 27. Actual damages,
- 17 28. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection  
18 Practices Act, Cal. Civ Code § 1788.30(c), and
- 19 29. Any other relief that this Honorable Court deems appropriate.
- 20

21 **DEMAND FOR JURY TRIAL**

22 PLEASE TAKE NOTICE that Plaintiff, DARLA DEVLIN, demands a jury trial in this  
23 cause of action.

24

25

RESPECTFULLY SUBMITTED,

DATED: January 20, 2010

KROHN & MOSS, LTD.

By:

Nicholas J. Bontrager  
Attorney for Plaintiff

**VERIFICATION OF COMPLAINT AND CERTIFICATION**

STATE OF CALIFORNIA

Plaintiff, DARLA DEVLIN, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, DARLA DEVLIN, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: 1/11/10

  
DARLA DEVLIN

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**EXHIBIT A**

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BCR

12.17.09 9:47 AM - MISSED CALL (925) 230-2588

12.17.09 2:57 PM - MISSED CALL (925) 230-2588

12/18/09 9:12 AM - MISSED CALL (925) 230-2588

12/21/09 8:59 AM - MISSED CALL (925) 230-2588

12/22/09 8:10 AM - MISSED CALL (925) 230-2588

12/22/09 5:27 PM - MISSED CALL (925) 230-2588

12/23/09 8:17 AM - MISSED CALL (925) 230-2588

12/23/09 4:05 PM - MISSED CALL (925) 230-2588

12/28/9 - 12:29 PM - MISSED CALL (925) 230-2588

12/29/09 8:20 AM MISSED CALL (925) 230-2588

12/29/09 2:11 PM MISSED CALL (925) 230-2588

12/30/09 8:57 PM MISSED CALL (925) 230-2588

1/4/10 8:28 AM MISSED CALL (925) 230-2588